

Message

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**From:** Maignan, Tawanda [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=55FEB19C04B64D36B629242FD3FA4912-TAWANDA MAIGNAN]  
**Sent:** 11/4/2020 5:41:54 PM  
**To:** Hathaway, Margaret [Hathaway.Margaret@epa.gov]  
**CC:** Davis, Kable [Davis.Kable@epa.gov]; Kenny, Daniel [Kenny.Dan@epa.gov]; Rosenblatt, Daniel [Rosenblatt.Dan@epa.gov]; Schmid, Emily [Schmid.Emily@epa.gov]  
**Subject:** RE: 24c Issue re. dicamba

Thanks Meg for the heads up!

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**From:** Hathaway, Margaret <Hathaway.Margaret@epa.gov>  
**Sent:** Wednesday, November 04, 2020 12:37 PM  
**To:** Maignan, Tawanda <Maignan.Tawanda@epa.gov>  
**Cc:** Davis, Kable <Davis.Kable@epa.gov>; Kenny, Daniel <Kenny.Dan@epa.gov>; Rosenblatt, Daniel <Rosenblatt.Dan@epa.gov>; Schmid, Emily <Schmid.Emily@epa.gov>  
**Subject:** 24c Issue re. dicamba

Hello Tawanda:

I wanted to alert you that tensions are rising about the Agency's 24(c) process in relation to the recently published dicamba decision. I don't think MUERB needs to take any immediate action on this, but it's something you should be aware of.

Here's what's happening:

In the 2020 dicamba registration decision, EPA notes that the 24c process is only for expanding the use pattern of Section 3 labels. It adds that if states want to further restrict the labels, they have to use the 24a process. This was included at Alex Dunn's request, informed by OGC comments.

As you know, in the past some states have used the 24c process to add restrictions to labels, such as the dicamba OTT registrations from 2018. The states are upset that this possibility being eliminated, and the media is asking EPA questions about this policy change (see email chain below). HB is still figuring out IO's asks on some points. HB is also working with FEAD to what website updates we'll need to the page <https://www.epa.gov/pesticide-registration/guidance-fifra-24c-registrations>

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**From:** Hathaway, Margaret  
**Sent:** Wednesday, November 04, 2020 12:25 PM  
**To:** Garrison, Scott <Garrison.Scott@epa.gov>; Lara, Rhina <Lara.Rhina@epa.gov>; Messina, Edward <Messina.Edward@epa.gov>  
**Cc:** Rosenblatt, Daniel <Rosenblatt.Dan@epa.gov>; Kenny, Daniel <Kenny.Dan@epa.gov>; Echeverria, Marietta

<Echeverria.Marietta@epa.gov>

**Subject:** RE: Press Inquiry - Dicamba - DDL 10/29 COB

Thanks Scott for your insights on this.

## Ex. 5 Deliberative Process (DP)

## Ex. 5 Deliberative Process (DP)

- Meg

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**From:** Garrison, Scott <Garrison.Scott@epa.gov>

**Sent:** Wednesday, November 04, 2020 10:18 AM

**To:** Lara, Rhina <Lara.Rhina@epa.gov>; Messina, Edward <Messina.Edward@epa.gov>

**Cc:** Rosenblatt, Daniel <Rosenblatt.Dan@epa.gov>; Hathaway, Margaret <Hathaway.Margaret@epa.gov>; Kenny, Daniel <Kenny.Dan@epa.gov>; Echeverria, Marietta <Echeverria.Marietta@epa.gov>

**Subject:** RE: Press Inquiry - Dicamba - DDL 10/29 COB

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## Ex. 5 Attorney Client (AC)

# Ex. 5 Attorney Client (AC)

Scott Garrison  
Pesticides and Toxic Substances Law Office (2333A)  
Office of General Counsel  
U.S. Environmental Protection Agency  
202-564-4047  
[garrison.scott@epa.gov](mailto:garrison.scott@epa.gov)

---

**From:** Lara, Rhina <[Lara.Rhina@epa.gov](mailto:Lara.Rhina@epa.gov)>  
**Sent:** Wednesday, November 04, 2020 10:11 AM  
**To:** Messina, Edward <[Messina.Edward@epa.gov](mailto:Messina.Edward@epa.gov)>  
**Cc:** Rosenblatt, Daniel <[Rosenblatt.Dan@epa.gov](mailto:Rosenblatt.Dan@epa.gov)>; Garrison, Scott <[Garrison.Scott@epa.gov](mailto:Garrison.Scott@epa.gov)>; Hathaway, Margaret <[Hathaway.Margaret@epa.gov](mailto:Hathaway.Margaret@epa.gov)>; Kenny, Daniel <[Kenny.Dan@epa.gov](mailto:Kenny.Dan@epa.gov)>; Echeverria, Marietta <[Echeverria.Marietta@epa.gov](mailto:Echeverria.Marietta@epa.gov)>  
**Subject:** RE: Press Inquiry - Dicamba - DDL 10/29 COB  
**Importance:** High

Hi Ed,

I am looping you in to this discussion! We received a press inquiry regarding 24c and re-iterated the following from the dicamba registration decision:

FIFRA section 24(a) allows a state to regulate pesticides more restrictively than EPA under the state's own authority. However, some of the states that have imposed cut-off dates on dicamba uses have done so under section 24(c). Section 24(c) only authorizes states to issue registrations for additional uses of federal registrations to meet special local needs. Moving forward, if states wish to impose further restrictions on the dicamba products, or any other federally registered pesticides, they should do so under section 24(a) of FIFRA.

The reporter is asking for a more direct response to her questions below. Should we respond directly? From my understanding, we are not providing a formal comment period, although we do mention on this webpage that we would do so: <https://www.epa.gov/pesticide-registration/guidance-fifra-24c-registrations>

1. Does the Tuesday dicamba registration decision and announcement re: FIFRA Section 24(c) mark an official change in EPA's position on states' use of Section 24(c)? And if so, has EPA decided to skip the public comment period it committed to on this topic in the spring of 2019?
2. Will this stance on 24c (no state restrictions, only expansions) be applied by EPA uniformly to all future state SLN labels on all pesticides, beyond dicamba?
3. Has EPA's position on this been prompted or influenced by the EPA's Inspector General investigation into states' use of Section 24(c)?
4. Via AAPCO, state regulators have directly petitioned EPA not to take this stance on Section 24(c), which will greatly limit states' ability to react quickly to new dicamba labels, given the cumbersome and time-consuming process of state rulemaking permitted via 24(a). Did EPA consult with state regulators or inform them of this new stance (no restrictions via 24 (c)) before the dicamba decision? Because the state regulators I have spoken to seem taken completely off guard by this announcement by their federal co-regulators.

Best,  
**Rhina M. Lara** (*she/her/hers*)  
Communications Branch  
Office of Chemical Safety and Pollution Prevention  
U.S. Environmental Protection Agency  
Phone: (202) 815- 5722

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**From:** Lara, Rhina  
**Sent:** Wednesday, November 4, 2020 9:27 AM  
**To:** Hathaway, Margaret <[Hathaway.Margaret@epa.gov](mailto:Hathaway.Margaret@epa.gov)>; Kenny, Daniel <[Kenny.Dan@epa.gov](mailto:Kenny.Dan@epa.gov)>  
**Cc:** Rosenblatt, Daniel <[Rosenblatt.Dan@epa.gov](mailto:Rosenblatt.Dan@epa.gov)>; Garrison, Scott <[Garrison.Scott@epa.gov](mailto:Garrison.Scott@epa.gov)>  
**Subject:** RE: Press Inquiry - Dicamba - DDL 10/29 COB  
**Importance:** High

Hi, again,

The reporter followed up on her inquiry and feels we didn't answer her questions. She specifically asked:

What happened to the public comment period on EPA's 24(c) interpretation specifically promised by Rick Keigwin to state regulators via AAPCO last spring?

She also asked if we were able to directly answer any of the questions below?

I am assuming we cannot provide more information. Let me know if there is anything else we can say regarding 24c.

Best,  
**Rhina M. Lara** (*she/her/hers*)  
Communications Branch  
Office of Chemical Safety and Pollution Prevention  
U.S. Environmental Protection Agency  
Phone: (202) 815- 5722

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**From:** Hathaway, Margaret <[Hathaway.Margaret@epa.gov](mailto:Hathaway.Margaret@epa.gov)>  
**Sent:** Monday, November 2, 2020 12:54 PM  
**To:** Lara, Rhina <[Lara.Rhina@epa.gov](mailto:Lara.Rhina@epa.gov)>; Kenny, Daniel <[Kenny.Dan@epa.gov](mailto:Kenny.Dan@epa.gov)>  
**Cc:** Rosenblatt, Daniel <[Rosenblatt.Dan@epa.gov](mailto:Rosenblatt.Dan@epa.gov)>; Garrison, Scott <[Garrison.Scott@epa.gov](mailto:Garrison.Scott@epa.gov)>  
**Subject:** RE: Press Inquiry - Dicamba - DDL 10/29 COB

Hi Rhina:  
Yes, please work with this text as the basis of EPA's responses.

Thank you,  
Meg

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**From:** Lara, Rhina <[Lara.Rhina@epa.gov](mailto:Lara.Rhina@epa.gov)>  
**Sent:** Monday, November 02, 2020 9:03 AM  
**To:** Hathaway, Margaret <[Hathaway.Margaret@epa.gov](mailto:Hathaway.Margaret@epa.gov)>; Kenny, Daniel <[Kenny.Dan@epa.gov](mailto:Kenny.Dan@epa.gov)>

**Cc:** Rosenblatt, Daniel <[Rosenblatt.Dan@epa.gov](mailto:Rosenblatt.Dan@epa.gov)>; Garrison, Scott <[Garrison.Scott@epa.gov](mailto:Garrison.Scott@epa.gov)>

**Subject:** RE: Press Inquiry - Dicamba - DDL 10/29 COB

Okay. Looping Scott in. I feel like we may not have specific answers to all of this reporter's questions. For example, I do see a FIFRA 24c memo coming up in December, but we have not started working on the comms for that just yet.

Here is some text straight from the registration decision document. Maybe we can respond with a variation of this?

FIFRA section 24(a) allows a state to regulate pesticides more restrictively than EPA under the state's own authority. However, some of the states that have imposed cut-off dates on dicamba uses have done so under section 24(c). Section 24(c) only authorizes states to issue registrations for additional uses of federal registrations to meet special local needs. Moving forward, if states wish to impose further restrictions on the dicamba products, or any other federally registered pesticides, they should do so under section 24(a) of FIFRA.

Best,

**Rhina M. Lara** (*she/her/hers*)

Communications Branch

Office of Chemical Safety and Pollution Prevention

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**From:** Hathaway, Margaret <[Hathaway.Margaret@epa.gov](mailto:Hathaway.Margaret@epa.gov)>

**Sent:** Monday, November 2, 2020 8:38 AM

**To:** Lara, Rhina <[Lara.Rhina@epa.gov](mailto:Lara.Rhina@epa.gov)>; Kenny, Daniel <[Kenny.Dan@epa.gov](mailto:Kenny.Dan@epa.gov)>

**Cc:** Rosenblatt, Daniel <[Rosenblatt.Dan@epa.gov](mailto:Rosenblatt.Dan@epa.gov)>

**Subject:** RE: Press Inquiry - Dicamba - DDL 10/29 COB

Hi Rhina:

Marietta told me that she participated in a call with Alex Dunn last week in which Alex made it clear that going forward 24(c) is only appropriate for making the label more expansive and not for adding restrictions.

That is the only feedback I've received from my management on this topic.

Margaret Hathaway (Meg)

Senior Regulatory Specialist

U.S. Environmental Protection Agency

OCSPP: Office of Pesticide Programs

Registration Division – Herbicide Branch

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**From:** Lara, Rhina <[Lara.Rhina@epa.gov](mailto:Lara.Rhina@epa.gov)>

**Sent:** Monday, November 02, 2020 8:28 AM

**To:** Kenny, Daniel <[Kenny.Dan@epa.gov](mailto:Kenny.Dan@epa.gov)>; Hathaway, Margaret <[Hathaway.Margaret@epa.gov](mailto:Hathaway.Margaret@epa.gov)>

**Cc:** Rosenblatt, Daniel <[Rosenblatt.Dan@epa.gov](mailto:Rosenblatt.Dan@epa.gov)>

**Subject:** RE: Press Inquiry - Dicamba - DDL 10/29 COB

**Importance:** High

Good Morning,

Circling back on this press inquiry. Do we have enough information to work on a response? We can run the response by Michele later today, once we have it drafted. Here are the questions:

1. Does the Tuesday dicamba registration decision and announcement re: FIFRA Section 24(c) mark an official change in EPA's position on states' use of Section 24(c)? And if so, has EPA decided to skip the public comment period it committed to on this topic in the spring of 2019?
2. Will this stance on 24c (no state restrictions, only expansions) be applied by EPA uniformly to all future state SLN labels on all pesticides, beyond dicamba?
3. Has EPA's position on this been prompted or influenced by the EPA's Inspector General investigation into states' use of Section 24(c)?
4. Via AAPCO, state regulators have directly petitioned EPA not to take this stance on Section 24(c), which will greatly limit states' ability to react quickly to new dicamba labels, given the cumbersome and time-consuming process of state rulemaking permitted via 24(a). Did EPA consult with state regulators or inform them of this new stance (no restrictions via 24 (c)) before the dicamba decision? Because the state regulators I have spoken to seem taken completely off guard by this announcement by their federal co-regulators.

Best,

**Rhina M. Lara** (*she/her/hers*)

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---

**From:** Kenny, Daniel <[Kenny.Dan@epa.gov](mailto:Kenny.Dan@epa.gov)>

**Sent:** Wednesday, October 28, 2020 10:32 AM

**To:** Lara, Rhina <[Lara.Rhina@epa.gov](mailto:Lara.Rhina@epa.gov)>; Hathaway, Margaret <[Hathaway.Margaret@epa.gov](mailto:Hathaway.Margaret@epa.gov)>

**Cc:** Rosenblatt, Daniel <[Rosenblatt.Dan@epa.gov](mailto:Rosenblatt.Dan@epa.gov)>

**Subject:** RE: Press Inquiry - Dicamba - DDL 10/29 COB

This is a tricky one. I'm looping in Dan R, because I think he's more up to date on the 24(c) issue. We will probably also need to loop in OGC (Michele Knorr).

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**From:** Lara, Rhina <[Lara.Rhina@epa.gov](mailto:Lara.Rhina@epa.gov)>

**Sent:** Wednesday, October 28, 2020 10:03 AM

**To:** Hathaway, Margaret <[Hathaway.Margaret@epa.gov](mailto:Hathaway.Margaret@epa.gov)>

**Cc:** Kenny, Daniel <[Kenny.Dan@epa.gov](mailto:Kenny.Dan@epa.gov)>

**Subject:** Press Inquiry - Dicamba - DDL 10/29 COB

**Importance:** High

Hi Dan and Meg,

We got this one from Progressive Farmer. Unfortunately, I am not up to speed on where we left off regarding Section 24© (I know there were some updates recently), so I am sorry for not taking a crack at a response for these.

1. Does the Tuesday dicamba registration decision and announcement re: FIFRA Section 24(c) mark an official change in EPA's position on states' use of Section 24(c)? And if so, has EPA decided to skip the public comment period it committed to on this topic in the spring of 2019?

2. Will this stance on 24c (no state restrictions, only expansions) be applied by EPA uniformly to all future state SLN labels on all pesticides, beyond dicamba?
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**Rhina M. Lara** (*she/her/hers*)

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